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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,081	01/28/2004	David M. Lokhorst	T286 0008	9804
720	7590	09/28/2005	EXAMINER	
OYEN, WIGGS, GREEN & MUTALA LLP			JENKINS, JERMAINE L	
480 - THE STATION			ART UNIT	
601 WEST CORDOVA STREET			2855	
VANCOUVER, BC V6B 1G1			PAPER NUMBER	
CANADA				

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,081

Applicant(s)

LOKHORST ET AL.

Examiner

Jermaine Jenkins

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-13 and 15-22 is/are rejected.
- 7) ☒ Claim(s) 4-6 and 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01282004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Double Patenting

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 15-22 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-8 of prior U.S. Patent No. 6,715,359. This is a double patenting rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 & 7-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Holland et al (5,277,067).

In regards to claim 1, Holland et al teaches a sensor having a substrate (10) covered by a membrane (14, i.e. anode layer; diaphragm) and a plurality of pressure sensors (2) on the substrate (10), the membrane (14) comprising at least a first and second areas separated by at least one divider (16, i.e. insulating layer) (Column 6, lines 33-48; See Figure 3), wherein a force applied to the first area causes substantially no response in those of the pressure sensors (2) underlying the second area (Column 5, lines 45-65).

With respect to claim 2, Holland et al teaches wherein the at least one divider (16) comprises a slot (21, i.e. vent) in the membrane (Column 3, lines 43-48).

With respect to claim 3, Holland et al teaches at least one divider (16) comprises a region of the membrane (14) attached to the substrate (10) (As seen in Figure 3, the membrane (14) is attached to the divider (16) which is connected to layer (12) that is connected to substrate (10). The direct connection between the noted elements causes a connection between the membrane and the substrate).

With respect to claim 7, Holland et al teaches wherein the substrate (10) comprises a plurality of cavities (18, i.e. void) and the at least one divider (16) comprises at least one portion of the membrane (14) attached to the substrate (10) in a region between two of the plurality of cavities (18) (As seen in Figure 3, the membrane (14) is attached to the divider (16) which is connected to layer (12) that is connected to substrate (10). The direct connection between the noted elements causes a connection between the membrane and the substrate).

With respect to claim 8, Holland et al teaches wherein the membrane (14) is separated from the substrate except in at least one region of the membrane (14) wherein the membrane (14) is in contact with the substrate (10) (As seen in Figure 3, the membrane (14) is attached to the divider (16) which is connected to layer (12) that is connected to substrate (10). The direct connection between the noted elements causes a connection between the membrane and the substrate).

With respect to claims 9-11, Holland et al teaches wherein the membrane (14) comprises protrusions (22, separation), each protrusion positioned to contact a pressure sensor of the plurality of pressure sensors (Column 3, lines 57-68).

With respect to claims 12 & 13, Holland et al teaches wherein the first and second areas are arranged in a non-regular and regular array (See Figures 3-7).

Allowable Subject Matter

5. Claims 4-6 & 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermaine Jenkins whose telephone number is 571-272-2179. The examiner can normally be reached on Monday-Thursday 7am-530pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jermaine Jenkins
A.U. 2855



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